

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

JOSEPH EDWARD SLOAN, BRYON Z. MOLDO,  
Chapter 7 Trustee - In Re JOSEPH EDWARD SLOAN,  
Debtor,

Plaintiffs,

vs.

Civ. No. 00-702 BB/WWD ACE

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY, a foreign corporation,  
and RANDAL W. ROBERTS, ESQ.,

Defendants.

MEMORANDUM OPINION AND ORDER

This matter comes before the Court upon Defendant State Farm Mutual Automobile Insurance Company's Motion for Protective Order Regarding Deposition of Terry R. Guebert, Esq. [docket no. 90]. Mr. Guebert is counsel for Defendants in the instant lawsuit. Under *Shelton v. American Motors Corp.*, 805 F.2d 1323 (8th Cir. 1986), there are three factors which should be considered before the deposition of opposing counsel is permitted, and they are as follows:

1. No other means exist to obtain the information but to depose opposing counsel.
2. The information sought is relevant and nonprivileged.
3. The information is crucial to the preparation of the case.

After reading the submissions of counsel, I conclude that Plaintiffs have failed to establish the *Shelton* factors. Accordingly, I find that the Motion for Protective Order Regarding Deposition of Terry R. Guebert, Esq., should be GRANTED.

**IT IS SO ORDERED.**

  
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UNITED STATES MAGISTRATE JUDGE